

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
TESTAMENTARY AND INTESTATE JURISDICTION
TEST. PETITION NO. 728 OF 2003

Smt. Jethibai Dharamshi Shah	 Deceased
Shri. Bhavanji Dharmashi Shah	 Petitioner
Vs.	
Mrs. Laxmiben Damji Shah	 Respondent

Ms. Rekha Mehta for the Petitioner.
None for the Respondent.

CORAM : S.K. SHAH, J.
DATED : 30.9.2004.

P.C. -

1. This is the Petition filed for grant of probate of the last Will and testament of Jethibai Dharmashi Shah. The citation was served. Thereafter Mrs. Laxmiben Damji Shah, the daughter of the deceased has filed the caveat on 28.4.2004, within time after the public notice was received by her on 17th April, 2004. However, the affidavit in support of the caveat came to be filed on 15.6.2004, much after the prescribed period of eight days from the date of filing of the Caveat. Therefore the Petition is not converted into Suit.

2. On the last number of occasions the Caveator has attended the Court along with his Counsel, who had taken the time for taking suitable steps in the matter. But no steps were taken and, therefore, finally the matter was kept today for final hearing and arguments and passing necessary orders.

3. Since other procedure is complete and there is no challenge to the probate petition, the Petition shall have to be allowed.

4. The Petition is supported by an affidavit. The copy of the Will is also produced. The affidavits of the attesting witnesses namely Mandedra Chheda and Manhoman Sharma are also filed. By these affidavits the execution of a Will has been proved. Therefore, the Petition shall have to be allowed.

5. The Petition is, therefore, allowed.

6. Probate to the Will of the Deceased Jethibai Dharmashi Shah dated 18.11.1995 be granted in favour of the Petitioner.

7. The Petition stands disposed of.

[S.K. SHAH, J.]